Remarks

Claims 1-7 and 18-27 are pending.

Claims 1-7 and 18-27 are rejected.

Claim 1 is amended as to claim that the sorting order and/or the playback order are changed "from a current sorting order and/or a current playback order to a new sorting order and/or playback order". Claim 1 is also amended to emphasize that the new sorting/playback order will contain files that were not from the previous "current" sorting/playback order. Claim 25 is amended in a similar manner.

No new matter was entered in view of these amendments.

Applicants note that in the Response to Arguments, the Examiner noted the "novel" feature of the Applicants invention as allowing a user to select a multimedia file currently displayed in a playlist and sort files of an entire library of multimedia files. Applicants have attempted to capture this feature admitted to by the Examiner as being novel, in the claims.

I. 35 U.S.C. 102(e) Rejection of Claims 1-7 and 21-27

The Examiner rejected Claims 1-7 and 21-24 under 35 U.S.C. 102(e) as being anticipated by Mercer et al. (U.S. Patent 7,043,477, hereafter referred to as 'Mercer'). Applicants disagree with this ground of the rejection.

Concerning the claim rejections under 35 USC § 102 presented in items 4 and 5 of the Office Action, it is submitted that with regard to claim 1 Mercer et al (US 7,043,477) discloses a device for playback of multimedia files, including means for changing the sorting order and/or the playback order of a plurality of multimedia files from a current sorting order and/or a current playback order to a new sorting order and/or a new playback order, wherein upon changing the sorting order and/or the playback order of the multimedia files the new sorting

order and/or playback order is determined by at least one property of the multimedia files, and wherein the means for changing the sorting order and/or the playback order include a button for changing the order by running through a predefined sequence of properties of the multimedia files.

Contrary to the Examiner's assertion, there is no indication at all that the currently selected multimedia file is kept and that the new sorting order and/or playback order is determined by at least one property of the currently selected multimedia file. In addition, Mercer does clearly not disclose that the new sorting order and/or playback order includes one or more multimedia files that are not included in the current sorting order and/or the current playback order, as recited in amended claim 1.

Mercer is only concerned with shuffling the files contained in a single playlist, i.e. the new sorting order and/or playback order includes only the files of the current sorting order and/or playback order, but arranged in a different order. There is no hint to include one or more multimedia files in the new sorting order and/or playback order, which are not included in he current sorting order and/or playback order.

Therefore, the features of Claim 1 are neither disclosed nor suggested in the cited art of record.

With regard to claim 25 Mercer allows for two possible interpretations. According to a first interpretation, the playback order of claim 25 corresponds to the playlist (302) of Fig. 3. In this case the creating of a second playback order would correspond to either the shuffling of the playlist as discussed above for claim 1, or to the selection of a different playlist. In the first case, there is no indication that the second playback order is created "in response to [...] a second property of said multimedia file being played back", as recited in claim 25. In addition, the first and second pluralities of multimedia files are identical, contrary to claim 25, which recites that "said second plurality of multimedia files contains at least one multimedia file which is not contained in said first plurality of multimedia

files". In the second case it is likely that "said second plurality of multimedia files contains at least one multimedia file which is not contained in said first plurality of multimedia files". However, there is no hint that the second playback order is created "in response to [...] a second property of <u>said multimedia file being played back</u>". This is hardly possible, as especially the different user defined playlist do usually not contain the same multimedia files. In addition, claim 25 now recites that "said first and second plurality of multimedia files are contained the same library of multimedia files", i.e. in the same playlist, which does exclude the possibility to switch from a first playlist to a second playlist.

According to a second interpretation, the playback order corresponds to a specific group (GROUP 1, GROUP 2, GROUP 3) within the playlist (302) of Fig. 3. Based on this interpretation Mercer discloses a method for creating a playback order for a device for playback of multimedia files, the method comprising the steps of:

playing back a multimedia file on said device;

creating a first playback order of a first plurality of multimedia files from a library of multimedia files in response to a first user activated command and a first property of said multimedia files; and

creating a second playback order of a second plurality of multimedia files from a library of multimedia files in response to a second user activated command and a second property of said multimedia files, where said second property is different from said first property, and said first and second plurality of multimedia files are contained the same library of multimedia files.

Again, there is no indication that the second playback order is created "in response to [...] a second property of <u>said multimedia file being played back</u>". Playback is simply switched from a "album-by-album" order to a "artist-by-artist" order etc. It is not disclosed that the "album" or "artist" property of the currently played multimedia file is taken into account. In any case the second plurality of multimedia files does clearly not contain at least one multimedia file which is not contained in said first plurality of multimedia files. All the groups of the playlist include all files of the playlist, but arranged in accordance with a different order.

In addition, as Mercer is only concerned with shuffling or grouping of all files of a playlist, without the possibility to have different files in the different playback orders, claim 25 is also inventive.

Applicant therefore asserts that Claim 25 is not disclosed or anticipated by Mercer.

For the reasons given above, Applicants assert that Claims 2-7 and 21-24 and Claims 26-27 are patentable, as such claims depend on allowable Claims.

II. 35 U.S.C. 103(a) Rejection of Claims 18-20

The Examiner rejected Claims 18-20 under 35 U.S.C. 103(a) as being patentable over Mercer in view of the Examiner's Official Notice.

The Examiner argues that in view of Mercer it would be obvious to use a button or buttons to change the playback order of a multimedia file. Hence, by using knowledge well known in the art, the Examiner concludes that the features of Claims 18-20 are anticipated by such a teaching, in view of Mercer.

The Examiner is however incorrect about the substance of Claims 18-20. For example, for Claim 18 a user activates a button change the property used for a currently selected multimedia file where the property will affect the play/sort order of a playlist, where there is a predefined sequence properties used the sort order. Hence, property A of a selected multimedia file will first be used, then a property B, then property C. The ordering of the selection of such properties can then be reversed, property C, property B, then property A.

Applicants assert that the substance of Claims 18-20 is not disclosed or suggested by Mercer in view of the Examiner's Official Notice in that the features of these claims are not known in the art.

In the response to the Applicants comments, the Examiner reiterates that such features are well known in the art.   The Applicants therefore request that the Examiner cite to a specific teaching that discloses the arrangement of features in Claims 18-20 where the "properties" used for playing back files change when a button is pressed.

Applicant requests that the Examiner remove the rejection to all of the pending claims. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicant's attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,

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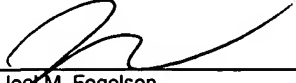
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